

Remarks

Claims 1-35 are pending in this application and Applicants acknowledge that claims 1-8, 14, 16-18, 22, 23, 32, and 34-35 are currently under examination (claims 9-13, 15, 19-21, 24-31, and 33 have been withdrawn from current consideration). This Amendment is being filed within two months of the previous final Office action.

Applicants appreciate the Examiner's courtesy in granting Applicants' representative a telephone interview on August 3, 2004. During the interview, agreement was reached regarding amendments to the claims that place claims 1-8, 14, 16-18, 22, 23, 32, and 34 in condition for allowance, as discussed in more detail below. This Amendment amends those claims to place them in condition for allowance.

Further, Applicants note that in response to the previous Restriction Requirement Applicants elected (with traverse) the species of an oral dosage of a high molecular weight, lipophilic, bioactive agent, comprising an antioxidant, a lipid matrix, and resveratrol. Applicants reserve the right to have additional species examined upon allowance of a generic claim.

Interview Summary

Applicants' representative and the Examiner discussed the rejection of claim 22 as allegedly being obvious and also the issue of whether Applicants' previous Amendment of claim 1 to recite "consisting essentially of" excluded surfactants from the claims.

Applicants' representative pointed out that the cited Chopra references do not disclose lipid matrix amounts as high as the about 85%-90% by weight amounts recited in Applicants' claim 22. It was further discussed that the cited Chopra references teach away from compositions containing such amounts of lipid matrix because the Chopra references recite preferable ranges for lipid matrix

amounts that trend downward. The Examiner agreed that claim 22 was not obvious in view of Chopra and that amending claim 1 to include the lipid matrix weight percentage feature of claim 22 would place claim 1 in condition for allowance.

Also discussed was whether Applicants' previous amendment of claim 1 to recite "consisting essentially of" in the preamble excluded surfactants from Applicants' claimed composition. This Office action alleges that such language cannot exclude surfactants because certain of Applicants' recited lipid matrix constituents allegedly are surfactants. Applicants noted that Chopra distinguishes between surfactants (column 3, lines 1-67) and triglycerides (column 5, line 64 – column 6, line 37) and even classifies Applicants' polyglycerol oleate/dioleate lipid matrix constituents alleged by the Examiner to be surfactants as triglycerides (column 6, lines 16-20). However, no agreement was reached on this issue.

Claim Amendments

In light of the foregoing, Applicants have amended claim 1 to recite the lipid matrix amounts recited in claim 22 and to delete the recitation of "consisting essentially of," replacing it again with "comprising." As indicated by the Examiner, claim 1 should now be in condition for allowance. Claims 2-8, 14, 16-18, 22, 23, 32, and 34 also are allowable at least because each depends from allowable claim 1, as well as for their additional novel and non-obvious features.

Applicants have cancelled claim 35 to expedite prosecution of this application even though Applicants believe that no new matter was introduced by this claim as alleged in this Office action.

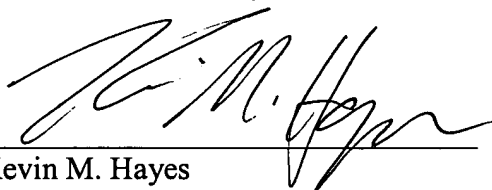
Conclusion

Based on the foregoing amendments and remarks, Applicants submit that this application is in condition for allowance and such action is respectfully requested. If the Examiner believes that any further action would place this application in better condition for allowance, the Examiner is invited to telephone the undersigned at (503) 226-7391.

Respectfully submitted,

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